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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVE DALE METZLER,

Defendant and Appellant.

H043370

(Monterey County

Super. Ct. Nos. SS151317A,

PS15083)

In case No. SS151317, defendant Steve Dale Metzler was charged with criminal threats (Pen. Code, § 422, subd. (a)¹ - count 1), assault with a deadly weapon (§ 245, subd. (a)(1) - count 2), dissuading a witness from testifying (§ 136.1, subd. (a)(1) - count 3), false imprisonment by violence (§ 236 - count 4), elder abuse (§ 368, subd. (b)(1) - count 5), assault with a deadly weapon (§ 245, subd. (a)(1) - count 6), vandalism causing damage in an amount less than \$400 (§ 594, subd. (a) - count 7), evading a peace officer (Veh. Code, § 2800.1, subd. (a) - count 8), and resisting a peace officer (§ 148, subd. (a)(1) - count 9). It was further alleged that defendant had one prior strike conviction within the meaning of sections 667, subdivision (d) and 1192.7, subdivision (c), a prior serious felony conviction (§ 667, subd. (a)(1)), and two prior prison terms (§ 667.5, subd. (b)).

¹ All further statutory references are to the Penal Code unless stated otherwise.

Count 6 was amended to reflect a violation of assault with force likely to cause great bodily injury (§ 245, subd. (a)(4)). After defendant was advised of his rights to a speedy trial, to confront and cross-examine witnesses, to present evidence in his own behalf, and to remain silent, defendant pleaded no contest to counts 2, 4, and 6. Defendant also admitted the truth of the allegations that he had one prior strike conviction and one prior prison term. Defendant's plea was entered on the condition that he would receive a prison sentence of five years and the remaining counts would be dismissed.²

On March 8, 2016, the trial court sentenced defendant to serve: the lower term of two years for count 2 doubled to four years pursuant to section 1170.12, subdivision (c)(1); the lower term of 16 months for count 4 to be served concurrently; and the lower term of two years for count 6 to be served concurrently. Defendant was also sentenced to a consecutive term of one year pursuant to section 667.5, subdivision (b). Defendant was awarded 33 days of presentence credit. The trial court also ordered defendant to pay a restitution fine of \$4,500 plus various fines and fees.

In case No. PS15083, a petition for revocation of post release community supervision was filed and alleged that defendant had been arrested both for an outstanding warrant and for the offenses alleged in case No. SS151317A. Defendant was found in violation of supervision based on his plea in case No. SS151317A.

On March 8, 2016, the trial court terminated post release community supervision and ordered defendant to serve 180 days in county jail consecutive to the sentence in case No. SS151317A. Defendant was awarded 180 days of presentence credit.

Defendant filed a timely notice of appeal in both cases.

Appointed appellate counsel has filed an opening brief which states the case and the facts but raises no issues. Defendant has submitted written argument on his own behalf. He argues that he agreed to plead no contest in connection with case No.

² The parties stipulated that the police reports provided a factual basis for defendant's pleas. However, the police reports are not included in the record on appeal.

SS151317A on condition, among other things, that the trial court would award 180 days of presentence credit in that case. He now “would like that time back.” There is nothing in the record on appeal indicating that one of the terms of the negotiated agreement was that 180 days of presentence credit would be awarded in case No. SS151317A.

Moreover, defendant overlooks that the trial court imposed a consecutive sentence of 180 days and awarded 180 days of presentence credit in case No. PS15083. (See § 2900.5.)

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

The judgment is affirmed.

Mihara, J.

WE CONCUR:

Elia, Acting P. J.

Bamattre-Manoukian, J.

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